

Meeting of 2009-8-25 Regular Meeting

MINUTES

LAWTON CITY COUNCIL REGULAR MEETING
AUGUST 25, 2009 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr. Also Present:
Presiding Larry Mitchell, City Manager
 Frank Jensen, City Attorney
 Traci Hushbeck, City Clerk

Mayor Purcell called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Councilmember Bill Shoemate, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Bill Shoemate, Ward One
James Hanna, Ward Two
Janice Drewry, Ward Three
Robert Shanklin, Ward Five
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
Doug Wells, Ward Eight

ABSENT: Jay Burk, Ward Four

AUDIENCE PARTICIPATION: None.

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

MOVED by Drewry, SECOND by Hanna, to approve the Consent Agenda. AYE: Hanna, Drewry, Shanklin, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval and consider passage of the resolution authorizing the City Attorney to file a friendly suit for the claim which is over \$400.00: Margaret Danley in the amount of \$250.00. Exhibits: Legal Opinion/Recommendation.
2. Consider the following damage claims recommended for denial: Margaret Wolfenbarger in the amount of \$6,468.12 and Jacqueline Burrell in the amount of \$1,216.51. Exhibits: Legal Opinions/Recommendations.
3. Consider approving a Law Enforcement Services Agreement between the City of Lawton and the Board of Education of Independent School District No. 8, Comanche County, Oklahoma, also known as Lawton Public Schools, granting authority to enforce municipal criminal and traffic ordinances on school property and on specific streets, highways, roads, alleys, easements and other public ways immediately adjacent to school property. Exhibits: Proposed Law Enforcement Services Mutual Aid Agreement.
4. Consider approving a resolution authorizing and calling for an election in the City of Lawton, State of Oklahoma, for the purpose of setting the dates for the 2009 primary and 2010 general municipal elections of the Mayor and designated City Council seats, setting a ballot title; and authorizing the Mayor to issue an election proclamation. Exhibits: **Resolution No. 09-81** and Election Proclamation.
5. Consider adopting an official Grievance Procedure under the Americans with Disabilities Act of 1990 and take appropriate action as deemed necessary. Exhibits: Letter to Bryan Long from US DOT, FHA dated June 16, 2009, Proposed Grievance Procedure and

Memo appointing ADA Coordinator.

6. Consider approving a contract with Broadcast Music, Inc. (BMI) to obtain authorization for the City of Lawton to lawfully use the copyrighted musical compositions included in the BMI repertory. Exhibits: Contract on file in City Clerk's office.
7. Consider acceptance of the 2009 Department of Justice Edward Byrne Recovery Assistance Grant (JAG). Exhibits: None.
8. Consider accepting a FEMA/State of Oklahoma reimbursement check for the total amount of One Hundred Forty Six thousand, Four Hundred Sixty-Four Dollars and Nine Cents (\$146,464.09) and authorize the Finance Department to deposit these funds into the FEMA Fund 35 account. Exhibits: Copy of the check in the amount of \$146,464.09.
9. Consider approving plans and specifications and authorizing staff to advertise for bids for Stimulus Package #1 of the WWTP Improvement Project #2008-11 Phase I (Compliance Improvements) in accordance with a Consent Order agreement between the ODEQ and the City of Lawton and identify a funding source for the construction. Exhibits: Plans & Specifications are on file in the Public Works Administration Office.
10. Consider approving project Change Order #4 (Change Order #2 for the Oklahoma Department of Environmental Quality) (ODEQ) to the existing Southeast Water Treatment Plant (SEWTP) Project with Archer Western Contractors, Ltd. Exhibits: Change Order # 4 (on file in the Public Works Administration Office) and DW-271 Form - Drinking Water State Revolving Fund.
11. Consider adopting a resolution to execute the Project Agreement for Federal-Aid Project Number STP-116E(184)EH, State Job Piece Number 26901(04) between the City of Lawton and the Oklahoma Department of Transportation for the Bicycle and Pedestrian Plan, Phase II, and authorize the Mayor and City Clerk to execute the Project Agreement. Exhibits: **Resolution No. 09-82**, Letter from ODOT. Transportation Enhancement Project Agreement is on file in the City Clerk's Office.
12. Consider acknowledging receipt of Tier I permits from the Oklahoma Department of Environmental Quality for the construction of 1,272 linear feet of 12-inch PVC waterline, 930 linear feet of 8-inch PVC sanitary sewer line, 287 linear feet of 12-inch PVC sanitary sewer line, and all appurtenances to serve Scissortail Development, Part 2 located mile south of NE Cache Road and mile west of NE Flower Mound Road in the S/2 of the NE/4 of Section 28, T2N, R11W, Comanche County, Oklahoma. Exhibits: Permits to Construct on file in the City Clerk's Office.
13. Consider approving an equipment rental agreement with PitneyBowes for DI380/DI425 Inserter system to be utilized for folding/stuffing/sealing mailing assembly for Financial/Payroll applications. Exhibits: PitneyBowes rental agreement on file in City Clerk's Office. Notification letter from PitneyBowes Financial Services Specialist specifying applicable credit.
14. Consider accepting the Benefit Program Application, Stop Loss Application and Performance Guarantees and amending the Administrative Services Agreement (ASA) to the contract (RFPCL07-053) Health and Dental Third Party Administrator with Blue Cross Blue Shield of OK and authorizing the Mayor and City Clerk to execute these applications and the amendment incorporating the terms therein. Exhibits: Documents are on file in City Clerk's office.
15. Consider approving appointments to boards and commissions. Exhibits: None.
16. Consider approval of payroll for the period of August 10-23, 2009.

NEW BUSINESS ITEMS:

17. Hold public hearings and adopt a resolution declaring the structure(s) located at: 916 SW B Avenue & 204 SW 10th Street, 1501 SW E Avenue, 1752 SW 14th Place, 1809 SW Garfield Avenue, 2006 SW Jefferson Avenue, 2407 SW Jefferson Avenue, 2409 SW Jefferson Avenue and 4304 NW Ridgecrest Drive to be dilapidated, detrimental to the health, safety or welfare of the general public and community, a blighting influence and a public nuisance. Authorize the City Attorney to commence legal action in district court to abate each nuisance. Further authorize Neighborhood Services to solicit bids to raze and remove the dilapidated structure, if necessary. Exhibits: Eight Resolutions. Summary documents with supporting photos, reports from the Fire Marshal, Housing Inspectors, and case history are available from Neighborhood Services.

916 SW B Avenue & 204 SW 10th Street

Anthony Griffith, Neighborhood Services Supervisor, presented photographs of the property. He stated there are

two structures at this legal address. There have been no utilities since 2001.

PUBLIC HEARING OPENED.

Bob Mansell, 4626 NW Meadowbrook Drive, stated he bought these two pieces of property between 1980 1988. The units have not been rented in several years. He purchased the property for additional parking to go with 915 C Avenue. He would like to keep the building on the corner and repair it and tear the garage apartment down on or before the first of the year and he would be willing to put that in writing.

Drewry stated that the repairs have to meet city code.

PUBLIC HEARING CLOSED.

Shanklin stated he is willing to give Mr. Mansell until the first of the year.

MOVED by Shanklin, SECOND by Hanna, to take no action on the property located at 916 SW B Avenue & 204 SW 10th Street. AYE: Drewry, Shanklin, Haywood, Wells, Shoemate, Hanna. NAY: Zarle. MOTION CARRIED.

1501 SW E Avenue

Griffith presented photographs of the property. He stated there have been no utilities since September 2007. He stated staff has secured the building several times.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Shanklin, SECOND by Haywood, to adopt **Resolution 09-83** declaring the structure at 1501 SW E Avenue as a dilapidated public nuisance. AYE: Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna, Drewry. NAY: None. MOTION CARRIED.

1752 SW 14th Place

Griffith presented photographs of the property. He stated there have been no utilities since December 2002. This is a fire damaged structure.

Hanna questioned when the fire occurred.

Griffith stated about eighteen months ago.

PUBLIC HEARING OPENED.

Joann Waters, P.O. Box 46, Franklin, Texas, stated she is the sister of the person who lived in the home in 2007. She stated the house did not burn eighteen months ago, it burned February of 2009. She had it boarded up at least three times. Her plan is to start with the room and there are materials in the home. They had completed 50% of the roof before the fire. She requested some time to finish the home since she was recently retired.

Drewry questioned if she was planning on moving here and living in the home.

Ms. Waters stated she will just visit and eventually she will probably sell the home. She does keep up on the taxes and the mowing. She does realize it will take some time.

Drewry stated it will take a lot of money also.

Haywood stated he has talked with Ms. Waters. He stated he has also talked with the residents in this area and they all want this property torn down or fixed up.

PUBLIC HEARING CLOSED.

MOVED by Haywood, SECOND by Drewry, to adopt **Resolution 09-84** declaring the structure at 1752 SW 14th Place as a dilapidated public nuisance. AYE: Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna, Drewry. NAY: None. MOTION CARRIED.

1809 SW Garfield Avenue

Griffith presented photographs of the property. He stated there are two street addresses for this property. It will either be called 1809 SW Garfield or 1809 Dr. Charles W. Whitlow Avenue. He stated they will go by the legal description. The structure has not had utilities since October 27, 2008.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Zarle, to adopt **Resolution 09-85** declaring the structure at 1809 SW Charles W. Whitlow Avenue/Garfield Avenue as a dilapidated public nuisance. AYE: Zarle, Haywood, Wells, Shoemate, Hanna, Drewry, Shanklin. NAY: None. MOTION CARRIED.

2006 SW Jefferson Avenue

Griffith presented photographs of the property. He stated the property has had no utilities since May 22, 2008.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Wells, to adopt **Resolution 09-86** declaring the structure at 2006 SW Jefferson as a dilapidated public nuisance. AYE: Drewry, Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna. NAY: None. MOTION CARRIED.

2407 SW Jefferson Avenue

Griffith presented photographs of the property. He stated the property has had no utilities since May 21, 2007.

PUBLIC HEARING OPENED.

Connie Redd, stated the house belongs to her mother, who has passed away. She stated she has talked with people today to see if she can get the property sold. She stated the windows are in good condition. She needs time to talk with her family to see how what they would like to do with the property.

Drewry stated if the property is declared dilapidated, she will still have time to do something with the property.

Ms. Redd stated she is not sure if they still own the house. She should find out later in the week. If they do own the home, she would like to sell it.

Griffith stated there is a mortgage on the property. He stated he will provide that information.

Haywood questioned how much time Ms. Redd needed.

Ms. Redd stated she would need until the beginning of next year.

Haywood recommended they give her one month. He stated he has made a commitment to tear down dilapidated homes all over ward seven.

PUBLIC HEARING CLOSED.

MOVED by Haywood, SECOND by Zarle, to table for one month. AYE: Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna, Drewry. NAY: None. MOTION CARRIED.

2409 SW Jefferson Avenue

Griffith presented photographs of the property. There have been no utilities since August, 2001.

PUBLIC HEARING OPENED.

Jay Crutchfield, owner of the property, requested the City Council do nothing with the property because he is working on another big project on B Avenue. It will be a while before he can get free to work on this property.

Haywood questioned when Mr. Crutchfield acquired the property.

Mr. Crutchfield stated he bought it at a tax resale three or four years ago. He has gutted the inside and finished 95% of the roofing, changed all of the boards. He stated the City of Lawton staff did say they would give him some time if he boarded up the property and kept the grass mowed.

Shanklin questioned how much time he needed.

Mr. Crutchfield stated he should finish the current project sometime in November.

Mitchell questioned if the current project is at 11th and B Avenue. He stated he has worked on this for two years.

Mr. Crutchfield stated they just recently started the construction work on this property.

Mitchell stated he has seen no activity for two months.

Mr. Crutchfield stated they have been working on interior demolition.

PUBLIC HEARING CLOSED.

MOVED by Haywood, SECOND by Hanna, to adopt **Resolution 09-87** declaring the structure at 2409 SW Jefferson Avenue as a dilapidated public nuisance. AYE: Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna, Drewry. NAY: None. MOTION CARRIED.

4304 NW Ridgecrest Drive

Griffith presented photographs of the property. There have been no utilities since December 2006. He stated there have a few fires in the past month.

Shanklin questioned if the owner was contacted.

Griffith stated the owner is deceased.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Shoemate, SECOND by Hanna, to adopt **Resolution 09-88** declaring the structure at 4304 NW Ridgecrest Drive as a dilapidated public nuisance. AYE: Zarle, Haywood, Wells, Shoemate, Hanna, Drewry, Shanklin. NAY: None. MOTION CARRIED.

18. Hold a public hearing and consider an ordinance closing a portion of a public utility easement on Lot 4, Block 2, Dove Creek Addition, Part 1C, located at 2408 SW 53rd Street. Exhibits: Ordinance No. 09-____, Location Map, Site Plan and Application.

Richard Rogalski, Planning Director, stated the property owner of Lot 4, Block 2, Dove Creek Addition, Part 1C, (2408 SW 53rd Street) requested a Certificate of Occupancy for his newly constructed house, and it was discovered that a portion of the house and patio encroach into the 21-foot utility easement on the rear of the lot. Mr. John Sand, property owner, has submitted an application to close the portion of the utility easement where the house and patio encroach. The developer, Warren Wagner, has offered to provide an additional public utility easement to make up for the loss in this particular case.

Zarle questioned if this land was recently annexed.

Rogalski stated no.

Wells questioned if it was just the patio that was in the easement.

Rogalski stated the patio is slightly on the easement, but the house is the larger problem.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Drewry, to adopt **Ordinance 09-26**, waive the reading of the ordinance, read the title only. AYE: Haywood, Wells, Hanna, Drewry, Shanklin, Zarle. NAY: Shoemate. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 09-26

An ordinance closing a portion of a utility easement located on property in Dove Creek Addition, Part 1C, addressed as 2408 SW 53rd Street, more particularly described in section one hereof.

19. Hold a public hearing and consider an ordinance closing a portion of the right-of-way of SW Summit Avenue and SW 13th Street. Exhibits: Ordinance No. 09-____, Location Map, Site Plan and Application.

Rogalski stated Goodwill Industries of Southwest Oklahoma has submitted an application to close 15 feet of the right-of-way of SW Summit Avenue adjacent to Lots 8, 9, and 10, Block 35, Waldman Addition and 15 feet of the right-of-way of SW 13th Street adjacent to Lot 8, Block 35, Waldman Addition, to enlarge the parking lot and install a fence. Goodwill Industries is in the process of constructing a new parking lot for the building located on Summit Avenue. The site plan shows that portions of the SW Summit and SW 13th Street rights-of-way would be used for the parking lot.

Goodwill also proposes to construct a fence around the parking lot for security of its trucks and vans that will be parked in the lot. The right-of-way of both streets is 80 feet wide.

PUBLIC HEARING OPENED.

April Slack, 1208 SW Park, questioned if this will close the alley. She stated there should already be a fence in place.

Rogalski stated the alley will not be closed. He stated they are required to put up a fence. He stated they are waiting for this activity.

PUBLIC HEARING CLOSED.

MOVED by Shanklin, SECOND by Drewry, to adopt **Ordinance 09-27**, waive the reading of the ordinance, read the title only. AYE: Wells, Shoemate, Hanna, Drewry, Shanklin, Zarle, Haywood. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 09-27

An ordinance closing a portion of the SW Summit Avenue and SW 13th street rights-of-way located in Block 35, Waldman Addition, more particularly described in section one hereof.

20. Consider accepting the annual audit report of the City of Lawton for the year ending June 30, 2008. Exhibits: Fiscal Year 2007-2008 Audit distributed to the City Council on August 20, 2009.

Rick Endicott, Finance Director, introduced Andy Cromer with Arledge and Associates, who is here as the external auditor. He introduce Frank Crawford, Crawford and Associates, who is here as the accounting consultant.

Mr. Cromer went over the single audit report which dealt with compliance and the internal controls. The other report deals with any issues with federal programs. He stated they did not have any problem with the federal grants. He stated there were some comments over internal control. This audit is for the year ended June 2008 and this is something they would like to get out six to seven months after year end, which does make it very relevant.

He stated the delay was caused by confusion with fixed assets and the city must keep up with them. Another part was with the retirement system audit which is audited by another firm and it was just received a month ago. He stated there are comments regarding encumbrances. Typically it was where the item or service was already purchased and then the purchase order was created. It was a back ended approval. They need to make sure the item is budgeted for before you incur the charges. He stated they are calling this a significant deficiency.

Mayor Purcell questioned what percentage of purchase orders are they talking about.

Mr. Cromer stated this was happening in the majority of those they looked at. Something over 50%.

Mayor Purcell stated Mr. Cromer was saying that over 50% of the purchases were made before a purchase order was done.

Mr. Cromer stated yes, it was significant. He stated the last item they are looking at as a significant deficiency is control over payroll disbursements. He stated an employee can elect to have their pay divided up in multiple ways. They can have it part electronic deposit and part check. Even the electronic deposit can be directed to go to different bank accounts. He stated when this is reported and reconciled only the first option is getting included in the reports. Internally the data is there, but it is hard to see that it is right. It would be nice to see all of this data so that you know that everyone is getting paid the proper amount.

Mayor stated that Mr. Cromer is saying that over 50% of all purchases made, the purchase order is done after the purchase is made.

Mr. Cromer stated yes. He said it was significant. He stated the last item they noticed as a significant deficiency is control of payroll disbursements. He stated this is really just a matter of the reporting system. He stated an employee can get their check dispersed several places and only the first option is getting included in the reports. Internally the data is there, but it is hard to see that it is right. He stated it would be nice to see all of the data to make sure the employee is getting paid the proper amount. They never saw any instances where the pay was incorrectly but it was almost impossible to tell that by looking at the report.

Shanklin questioned if we have been doing this all along.

Endicott stated the City implemented a new accounting system a couple of years ago. He stated Mr. Cromer made it sound as though 50% of our purchases are not being done correctly. He stated we do over 60,000 requisitions and the auditors only take a sampling of the requisitions. One of the reasons they purchased this particular system

is to control the purchases up front. He stated there is an approval process that a person has to go through once they process that requisition and make a purchase. He stated he does not agree that 50% of the purchases are not in compliance with that process. The accounting process has been cumbersome, but they are getting better as time goes by.

Mr. Cromer stated that standards have changed and things that they did not report are now being reported. To be a significant deficiency, there is a chance that these things could happen. There is not a real high threshold to clear. He stated this is a typical problem.

Frank Crawford, Crawford and Associates, stated the main role of the auditor is to take the financial statements prepared by staff and issue an opinion as to whether those numbers are free of material misstatements. The opinion that the auditor has issued is called a clean opinion and they have said that these numbers fairly present the City's financial position and the results of operations for the city as a whole. The issues Mr. Cromer spoke of are more of a byproduct of the audit process. The auditors will trip across these internal control weaknesses that they would like to see improved. Some weaknesses are stronger than others and they use terms like material weakness, significant deficiency and controlled deficiency to explain things to us. He stated at the end of the day we have a clean audit or an unqualified opinion. He stated their role in assisting staff in getting numbers together and getting the report issues. A byproduct of what they do is called a Performer, which is a methodology to analyze the financial statements of a government as a whole and reduce it down to a simple term. He stated a zero is very poor and a five being average. He stated we are around a 7.2. The scores are broke down in three categories: financial position, financial performance and financial capability. He stated our strength was in performance, but it will get worse through 2009 and the score should drop. He does not think we will be in the seven range at the end of June 2009. He stated regarding the budgetary fund balance or the rainy day reserve, state law requires that we should have a minimum of about 10% of your annual revenue stream so that if revenues drop we can use at least ten cents from our reserves. Right now we have dropped to about 8%. You should be between 10% and 30%. The general fund has depleted its reserves from about an 18% level at the end of 2007 to about an 8% level in June 2008. Based on what he knows of 2009, that 8% is probably going to go down even further before it recovers.

Shanklin stated they don't need to be giving pay raises.

Mr. Crawford stated he would be very careful incurring obligations unless you have a stream of revenue that is coming in or more revenue coming in than expected. This is simple math at the end of the day.

Mayor Purcell stated they either have to raise that stream of revenue or you have to not do something or lay off.

Mr. Crawford stated if revenue streams don't come in at a certain pace, then something has to be done.

Mayor Purcell stated we match revenues and expenditures on a month to month basis.

Wells stated when you have raised rates as much as you can you must look at cutting services.

Mr. Crawford stated a number of communities he deals with are losing money on their sanitation rates and the easiest solution was to not raise rates, but move to once a week pick up.

Wells stated the Lawton Economic Development Authority (LEDA) is showing an additional \$3.5 million debt under long term debt, he questioned if this was part of the \$9 million.

Endicott stated at this point in time that amount of money was drawn on that line of credit.

Wells questioned if the City was responsible for that \$3.5 million.

Endicott stated is a completely separate entity, but we the auditors are responsible to make sure it is reported as an arm of the City.

Mr. Crawford stated the City of Lawton is not obligated. There is some fiscal relationship responsibility, but it would be misleading to exclude them from this report.

Wells stated under LEDA they are showing an additional \$3.5 million debt under long term debt. He questioned if that was part of the \$9 million.

Endicott stated yes when this audit was done that amount of money had been drawn on that line of credit.

Wells stated since it was added under that section, that indicates that the City is responsible for that \$3 million.

Endicott stated LEDA is a completely separate entity. The auditors are responsible to make sure it is reported as an arm of the City.

Mr. Crawford stated the City is not obligated.

Wells questioned if it took a 2/3 vote of the Council to go into that debt.

Endicott stated it had full support of the Council when the debt was entered into.

Mitchell stated the Council vote was unanimous.

Mr. Crawford stated anytime one of these component units wants to issue long term debt they have got to get at least a 2/3 approval of the beneficiary votes, which in this case is the City Council.

Wells stated even if it takes a 2/3 vote, that does not mean the City Council has any responsibility for that debt.

Mr. Crawford these component units have their own right and ability to sue and be sued in the own name and issue debt without a vote of the people. They are their own separate legal entity and the City Council's obligation ceases from a legal standpoint once that entity is created. It is that entity's debt. He has seen a number of governments cover the debt out of a moral obligation, but there is no legal obligation.

Wells stated they cannot go into debt without a vote of the City Council, but we are not responsible for that debt once they go into it.

Mr. Crawford stated without looking at every indenture, typically and generally that is correct. They will issue their own debt in their own name and there are usually provisions in the debt that guarantee its repayment and the City of Lawton usually would not be one of the guarantors. If the trust was ever dissolved, what would be left over would come back to the City of Lawton, but usually they would not dissolve until the debt is satisfied.

Endicott stated that staff is doing everything they can to cooperate with the auditors to make sure this is done in a timely fashion.

Mayor Purcell stated staff should be congratulated for having an unqualified audit. That is pretty hard to get.

MOVED by Wells, SECOND by Drewry, to accept the annual audit report for the year ending June 30, 2008. AYE: Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna, Drewry. NAY: None. MOTION CARRIED.

21. Consider a requested credit adjustment in the amount of \$1,103.76 to the Lawton Rangers service account #22648 for the property at 2102 SE 60th Street for an undetected, underground leak on the customer's water service line. Exhibits: Copy of Lawton Rangers June and July service bills, Shields Plumbing invoice dated 06/20/09, City Code Section 22-2-1-215 and Meter Information Printout showing account is submeter on water association.

Barbara Curran, Revenue Services Supervisor, stated the meter for the Lawton Rangers had high consumption. Staff notified them and they did have it repaired. She stated because it is a sub-meter on a water association line, the city code prevents any account adjustment for a leak in a situation where the leak is between the sub-meter and the structure, or in this case it is for their arena. She stated the leak adjustment does not meet the specifications and staff does not recommend the adjustment be granted.

Shoemate questioned if the rural water association would make any adjustments.

She stated she did not know if the association would give them any assistance.

Shanklin questioned if anyone was getting any complaints from constituents regarding their water bills.

Hanna stated he has gotten a few calls regarding the installation of the new meters where they have cracked the lines.

Mayor Purcell stated the code says they cannot do this, but he questioned if they could override the code tonight or do they want to change the code.

Jensen stated if the City Council disregards the code they will expect a lot more applications like this. They need to honor the code or change it.

MOVED by Drewry, SECOND by Hanna, to deny the credit adjustment.

Shanklin stated they are alienating the citizens. We serve them, they do not serve us. He stated this isn't right, these people support Lawton and they did not steal this water.

Jensen stated that even if they change the code, they cannot go back and try to apply a newly enacted ordinance or amended ordinance retroactively.

VOTE ON ORIGINAL MOTION: AYE: Zarle, Haywood, Wells, Shoemate, Hanna, Drewry. NAY: Shanklin. MOTION CARRIED.

22. Consider approving an ordinance amending Section 17-1-3-124, Division 17-1-3, Article 17-1, Chapter 17, Lawton City Code, 2005, by adding language to: (1) allow applicants for one job classification from one recruitment to be considered for openings in the same classification that occur in the next 60 days, and (2) make the use of the same candidate pool discretionary in situations where the original candidate's conditional job offer is rescinded, providing for severability, and establishing an effective date. Exhibits: Ordinance No. 2009-____.

Shanklin stated this would be good for the City of Lawton.

Jensen stated the effective date would be October 1, 2009.

MOVED by Shanklin, SECOND by Drewry, to adopt **Ordinance 09-28**, waive the reading of the ordinance, read the title only and establishing an effective date. AYE: Wells, Shoemate, Hanna, Drewry, Shanklin, Zarle, Haywood. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 09-28

An ordinance pertaining to personnel policies and procedures amending Section 17-1-3-124 certification and appointment, Division 17-1-3 recruitment, selection and appointment, article 17-1 personnel regulations, Chapter 17 personnel policies and procedures, Lawton City Code, 2005, by adding language to: (1) allow applicants for one job classification from one recruitment to be considered for openings in the same classification that occur in the next 60 days, and (2) make the use of the same candidate pool discretionary in situations where the original candidate's conditional job offer is rescinded, providing for severability and establishing an effective date.

23. Consider amending an ordinance pertaining to recreation, Section 19-1-111, Article 19-1, Chapter 19, Lawton City Code, 2005, by adding a regulation to establish a twenty-four hour waiting period before a camper can enter another campsite after vacating a campsite previously occupied by the same camper when their twenty-one (21) day or fourteen (14) day permit expires at Lakes Lawtonka and Ellsworth, providing for severability and establishing an effective date. Exhibits: Proposed Ordinance 09- ____.

Kim Shahan, Parks and Recreation Director, stated during the July 15th Lakes and Land Commission meeting this item was brought by some lake employees. This item pertains to the 21 day permit and the 14 day permit that allows for a person to be on a site and camp there for that 14 or 21 days. The existing rule says that they must leave that site and move to another location after the 14 or 21 days. The Commission is requesting that after someone has camped for 21 or 14 days, they will need to leave the premises before they can camp at one of the locations. He stated he does not agree with this recommendation and he would like to keep the code as it is now.

Zarle stated questioned if they had enough overnight spots available.

Shahan stated there are camp sites available, but it may not be the site that someone wants. There are some that have preferences and they would prefer to be in a certain location. On a regular basis, throughout the camping season, camping sites are available.

Wells stated that Fort Sill has two areas where visitors can park campers. He stated he would recommend that on Section 19-1-111, C3 in the second sentence where it talks about leaving for a 24 hour period, he would like to add a statement that says provided there are no vacant campsites. He stated they shouldn't penalize someone that is willing to pay to be out there.

Drewry stated she feels there is no reason to change the code. It is working the way it is and there are available spots out there. There are people that do business with us every year and why should we make them leave for 24 hours. This makes no sense.

Mayor Purcell stated that now, these people just move from that preferred campsite to another. They don't have to leave. This frees up the preferred campsite for the next person. He stated he received a call from someone who suggested they establish some other campsites that are short term.

Shahan stated these people would be doing the same thing and filling it up. He stated this is a good problem in that there are people who want to use the lakes. As they continue to develop plans and funding becomes available, they will increase camping sites.

Shanklin questioned if camping use has been up.

Shahan stated yes.

Debbie Martin, 2103 SE Bethel Road, stated her family camps north of the boat club and they take their campers out there beginning in March and begin paying seven days a week. They stay through October. The only time there is a problem finding a spot is between Memorial Day and July 4th. She stated there are empty spots everywhere. They pay for 21 days at a time. She pays \$450 per month. They are not trying to monopolize anything, they just simply enjoy their time at the lake. They feel that if they are made to pull their campers out for 24 hours every 21 days will create a lot of chaos. They are requesting the City Council vote no on this ordinance.

Bobbie Jo Gilliam, 109 SW 20th Street, stated she agrees that adding more camp sites would be a good thing. She suggested some five day spots. She stated if she has to leave for 24 hours she will be less likely to come back. The City of Lawton will lose money from a lot of people. She stated it is very functional the way it is.

Shanklin questioned what was included in the \$450 a month.

Ms. Gilliam stated the campsite which includes electricity. She stated she comes out on Friday and usually leaves on Sunday.

Shahan stated with their camping operations, whether it be concession operated or public use, they have over 90 plus annual camping facilities for people who are paying an annual fee to have a spot. He stated these people want to be out there the whole summer and are willing to pay a daily rate.

Shoemate questioned if there was land across the highway that could be utilized for campsites. He stated all you see on the shoreline is trailers at both lakes. We are the only lake in Oklahoma that has this.

Shahan stated he would have to disagree because the structure of our lake is what creates that image for most people. In most lakes there are tree lines but most camping operations are within a 200-300 feet of the lakeshore.

MOVED by Drewry, SECOND by Haywood, to deny passage of the ordinance. AYE: Shoemate, Hanna, Drewry, Shanklin, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

24. Consider and take appropriate action for a recommendation for establishment of and location of a Dog Park at the McMahon Sports complex. Exhibits: Letter of Proposal Humane Society of Lawton-Comanche County.

Shahan stated over the past three years there has been interest in the City of Lawton providing property for an established dog park. He stated has received a proposal from the Human Society. They have located a piece of property that will work for this type of park. Tonight he is asking the City Council to approve that a dog park can be established in McMahon Park.

Haywood stated he did look at a dog park in Edmond and came back and spoke with Mr. Shahan about the location. He recommended that they approve this proposal.

Phyllis Robertson, Lawton Humane Society, stated they are not in this alone. They have support from Cameron University, Boy Scouts of America and members of the Lawton Dog Fanciers. The Humane Society is a community based organization. She believes this is a quality of life issue for the community. She stated she has a lot of help with the funding and there should be no cost to the City of Lawton.

Haywood stated he has heard nothing but good things about the Humane Society.

Hanna questioned if park staff will be responsible for maintaining the park.

Shahan stated they already maintain the property. There will be no additional operational cost. He stated there will also be a high level of interest by the public so there should be public support.

Hanna stated the budget is strained and there is no money to give out to anyone.

Shahan stated they will mow and weed eat around the fencing.

Wells questioned if they will develop regulations for the park.

Shahan stated all of those procedures will be done by the organization.

Hanna questioned the liability issue.

Shahan stated the American Kennel Association has provided them with guidelines regarding regulations that will need to be posted and they will follow those procedures.

MOVED by Haywood, SECOND by Zarle, to approve the establishment and location of a Dog Park at the McMahon Sports complex. AYE: Hanna, Drewry, Shanklin, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED.

25. Consider an ordinance amending Sections 15-1-101 and 102, Article 15-1, Chapter 15, Lawton City Code, 2005, by further defining the term Nuisance; amending Section 16-1-1-109, Division 16-1-1, Article 16-1, Chapter 16, Lawton City Code, 2005, by providing for penalties for Nuisance violations; amending Section 16-4-1-401, Division 16-4-1, Article 16-4, Chapter 16, Lawton City Code, 2005, by further defining disturbing the peace; amending Sections 16-4-2-423, 424, and 424.1, Division 16-4-2, Article 16-4, Chapter 16, Lawton City Code, 2005, by renaming Sections 423, 424, and 424.1 and further defining and prohibiting certain unreasonable, continuous or substantially loud noises, further defining and prohibiting certain loud noises from vehicles; providing for severability, and declaring an emergency. Exhibits: Ordinance 2009-_____.

Jensen stated all of these code sections deal with loud noises in varying circumstances. There were all of these different standards that did not fit together or make sense. They have tried to make it uniform.

Shoemate questioned if this included bars and clubs.

Jensen stated it includes everything.

MOVED by Zarle, SECOND by Wells, to adopt **Ordinance 09-29**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Wells, Shoemate, Hanna, Drewry, Shanklin, Zarle. NAY: None. ABSENT: Haywood. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 09-29

An ordinance pertaining to nuisances and health amending Sections 15-1-101 and 102, Article 15-1, Chapter 15, Lawton City Code, 2005, by further defining the term nuisance; amending Section 16-1-1-109, Division 16-1-1, Article 16-1, Chapter 16, Lawton City Code, 2005, by providing for penalties for nuisance violations; amending Section 16-4-1-401, Division 16-4-1, Article 16-4, Chapter 16, Lawton City Code, 2005, by further defining disturbing the peace; amending Sections 16-4-2-423, 424, and 424.1, Division 16-4-2, Article 16-4, Chapter 16, Lawton City Code, 2005, by renaming Sections 423, 424, and 424.1 and further defining and prohibiting certain unreasonable, continuous or substantially loud noises, further defining and prohibiting certain loud noises from vehicles; providing for severability, and declaring an emergency.

26. Consider authorizing the Fire Department to accept the Federal Government s SAFER Grant (Staffing for Adequate Fire & Emergency Response), which provides match based funding to assist with the cost of additional firefighter positions in local fire departments and if accepted, would provide 12 new entry-level firefighter positions to the Lawton Fire Department. Exhibits: SAFER Grant Program Guidance and award document. Grant/Match cost breakdown, throughout the program s five-year grant period.

Chief Bart Hadley, Lawton Fire Department, stated this is one of the biggest things to happen to their department. This is a very competitive grant and Lawton is the third in the state of Oklahoma. The first year the federal government provides 90% and the City will be required to provide 10%. It goes to 80% the next year then 50% and 30%. The grant period is five years. The fifth year the City would be required to maintain those personnel at 100%. Should the City Council decide at that time that they did not want to maintain those 12 positions they could because they have met the requirements of the grant. It is the federal government s idea to help gradually build those into city budgets so that they can afford and maintain these positions.

Shanklin questioned how that would affect our budget the first year.

Hadley stated the 10% share can be absorbed through the savings they will see in the overtime budget. Currently they have to call in overtime when they fall below a certain level. These positions would give them four additional people on each of the three shifts. This would do away with all of the call back overtime they are currently experiencing. The budget for overtime is approximately \$130,000 for the year.

Shanklin stated this will cost about \$800,000 in five years. He questioned how many of those will come from the county.

Hadley stated there are 46 that made it through the hiring process and the makeup is about the same as the past.

Shanklin stated the City Council will have to raise water rates in five years if there are not other revenues. They

are lucky that they are not furloughing right now. He stated he is not going to be able to support this.

Mitchell stated they firmly believe that they can cover the expenses for the first year and a half, possibly two years out of savings in overtime as the chief described. There is a separate fund that produces money that they can use to train these officers in house. He stated if the City is planning on adding firefighters over the next five years, then this grant money makes sense because you are getting half of it paid for. We would save 42% of that cost. This is the way you have to look at it. He stated the chief has proposed adding firefighters every year for the last four or five years. We are at the same manning level we were back in the early 1980 s.

Chief Hadley stated these positions are needed. They have waited patiently for an opportunity like this to be able to catch up. He stated in 1981, the staffing level is about the same but the city has grown.

Shoemate questioned if they pay for the training.

Chief Hadley stated they do pay for the training that is required. Some will come in with certifications from the technology center.

Drewry stated she does not see how they cannot take advantage of this.

Shanklin stated he is just concerned how they will fund this. He does not want a \$80 water bill.

Wells stated he feels they need a public safety committee activated to determine what they need and where they are going. Whatever the situation is, they need to get a public safety committee together that includes council members to figure out the planning for police and fire for future years. The City Council in the past approved applying for this grant. He was against new positions but he will have to support this since the City Council approved the grant to start with.

Chief Hadley stated they will see cost savings in overtime every year, but in addition with the improvements the city is making to water distribution system and with 911 system, those are two of the three main components in our ISO rating which affects everyone s insurance rates, particularly businesses in the city of Lawton. With the additional personnel and the ladder truck that the City Council approved in the budget, he feels the changes of improving our ISO rating from a three to a two are very strong. That would save the citizens a great deal of money.

Mayor Purcell stated we are going to need more firefighters and police officers over the next five years. He stated anyone can call their insurance agent and find out how much they will save with a lower ISO rating.

Zarle stated he was told that the fire department sends two units with six instead of one unit with three men.

Chief Hadley stated typically they send more than one truck to a structure fire. He stated the national standard says you should have between 18-23 on scene for a normal residential fire. Having these additional people from a three man company to a four man company is what this is designed to do. This will allow them to change to four man engine companies at many stations.

Haywood stated they cannot pass up this opportunity.

MOVED by Wells, SECOND by Haywood, to authorize the Fire Department to accept the Federal Government s SAFER Grant. AYE: Wells, Shoemate, Hanna, Drewry, Shanklin, Zarle, Haywood. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Wells stated there vacancies on boards and commissions and he requested the public contact their councilmember is they are interested.

Haywood stated that he is trying to clean up his area and he has made a commitment to his constituents to take care of the vacant houses in his ward.

Shanklin stated he would like to see a survey of how many empty buildings there are in town. They need to take a look at where they are with regard to ragtag buildings. He stated BRAC is not the panacea that everyone believes it to be.

Drewry stated that everything seems to be much cleaner in the city and she has heard a lot of positive comments on this issue.

Hanna stated he would like to see the original eastside industrial park cleaned up. He stated he it has been over two years since this issue has bee brought up.

Mitchell stated the Fairmont Dairy will be coming back to the City Council soon.

Shoemate thanked the members of Lawton Beautiful for all of the things they are doing to clean up this area.

Mayor Purcell stated that the contractor who is mowing the medians is doing a really great job of cleaning up. He stated enrollment rates are up all over town. He stated the new city hall will need to be used soon and it will take money to move and operate the building. No money was budgeted for these expenses.

The Mayor and Council convened in executive session at 9:06 p.m. and reconvened in regular, open session at 9:37 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

27. Pursuant to Section 307B.3, Title 25, Oklahoma Statutes, consider convening in executive session to discuss right-of-way acquisition for the 2008 CIP projects and take appropriate action in open session. Exhibits: None.

Jensen read the title of item 27. No action taken.

28. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the employment of Michael Corrales as Municipal Judge and take appropriate action in open session. Exhibits: None.

Mayor Purcell read the title of item 28.

MOVED by Shoemate, SECOND by Drewry, to accept the resignation of Judge Michael J. Corrales effective October 15, 2009 and provide to him four months severance pay and 100% buyout on his current sick leave balance. AYE: Drewry, Shanklin, Zarle, Wells, Shoemate, Hanna. NAY: None. ABSTAIN: Haywood. MOTION CARRIED.

29. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session for the semiannual performance employee review of Traci L. Hushbeck as City Clerk, and in open session take other action as necessary. Exhibits: None.

Mayor Purcell read the title of item 29. No action taken.

There being no further business to consider, the meeting adjourned at 9:40 p.m. upon motion, second and roll call vote.

/s/ John P. Purcell, Jr.
JOHN P. PURCELL, JR., MAYOR

ATTEST:

/s/ Traci Hushbeck
TRACI HUSHBECK, CITY CLERK